

Adopted	Rejected
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COMMITTEE REPORT

YES:	10
NO:	1

MR. SPEAKER:

*Your Committee on Financial Institutions, to which was referred Senate Bill 379, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 2, delete lines 28 through 42, begin a new paragraph and
- 2 insert:
- 3 "**(c) The following apply to a purchase or sale under subsection**
- 4 **(a):**
- 5 **(1) Except as provided in subdivisions (2) and (3), if the**
- 6 **fiduciary relationship is a trust or an agency, the trustee or**
- 7 **agent shall treat the purchase or sale under subsection (a) as**
- 8 **if it were a conflict of interest transaction under IC 30-4-3-5**
- 9 **and shall give any notice and obtain any consent that may be**
- 10 **required under IC 30-4-3-5, subject to the following:**
- 11 **(A) IC 30-2-14-16 applies to any notice required to be**
- 12 **given by a trustee or an agent under this subdivision,**
- 13 **subject to the following:**
- 14 **(i) If the fiduciary relationship is a revocable trust with**
- 15 **one (1) or more living grantors, the trustee must give**

1 notice only to the living grantors, who shall be
2 considered to have all income and principal interests in
3 the trust at the time the notice is given. If a grantor is
4 incapacitated, the trustee shall give notice to the
5 grantor's court appointed guardian, the principal under
6 a durable power of attorney, or a co-trustee of the
7 revocable trust, unless the guardian, principal, or
8 co-trustee is the bank or trust company that seeks the
9 consent. If the representative of the incapacitated
10 grantor is the bank or trust company that seeks the
11 consent to a purchase or sale under subsection (a), the
12 trustee shall obtain consent from the court.

13 (ii) If the fiduciary relationship is a revocable trust and
14 the assets of the revocable trust are distributable to one
15 (1) or more other trusts, notice shall be given to the
16 trustees of the other trusts. However, if the bank or trust
17 company that seeks the consent to a purchase or sale
18 under subsection (a) is the trustee of another trust to
19 which the assets of the revocable trust are distributable,
20 the bank or trust company shall give notice to those
21 beneficiaries of the other trust who are entitled to receive
22 statements of account activity from the bank or trust
23 company.

24 (iii) If the fiduciary relationship is an agency, the
25 principal must consent to the purchase or sale under
26 subsection (a) in writing in advance of the transaction.
27 The principal shall be considered to have all income and
28 principal interests in the account at the time the notice of
29 the proposed transaction is given. If the principal is
30 incapacitated, consent must be obtained from the
31 principal's court appointed guardian, unless the
32 guardian of the incapacitated principal is the bank or
33 trust company that seeks the consent. If the guardian of
34 the incapacitated principal is the bank or trust company
35 that seeks the consent, consent to a purchase or sale
36 under subsection (a) must be obtained from the court
37 supervising the principal's guardianship.

38 (B) If the fiduciary relationship is a trust, the following

1 **apply with respect to any consent required to be obtained**
 2 **under IC 30-4-3-5(a)(2):**

3 **(i) Notwithstanding the requirement under**
 4 **IC 30-4-3-5(a)(2)(A) that all interested persons provide**
 5 **written consent to the proposed action, and subject to**
 6 **subdivision (2), a trustee, for a proposed purchase or sale**
 7 **under subsection (a), need only obtain the written**
 8 **consent of a majority of the persons entitled to notice**
 9 **under IC 30-2-14-16, as modified by this clause.**
 10 **However, the trustee must obtain the written consent of**
 11 **at least one (1) beneficiary who is receiving income**
 12 **under the trust at the time of the notice and at least one**
 13 **(1) individual who would receive a distribution of**
 14 **principal if the trust were terminated at the time notice**
 15 **is given.**

16 **(ii) Upon obtaining the written consents required under**
 17 **item (i), the trustee need not wait until the period to**
 18 **make written objections under IC 30-2-14-16 ends, in**
 19 **order to take the proposed action.**

20 **(2) Any consent granted under subdivision (1)(B)(i) may be**
 21 **revoked by a writing signed by a majority of the persons**
 22 **entitled to notice under IC 30-2-14-16, as modified by this**
 23 **clause. However, the revocation must be signed by:**

24 **(A) at least one (1) beneficiary who is receiving income**
 25 **under the trust at the time the revocation is signed; and**

26 **(B) at least one (1) individual who would receive a**
 27 **distribution of principal if the trust were terminated at the**
 28 **time the revocation is signed.**

29 **(3) The notice and consent otherwise required under**
 30 **subdivision (1) are not required if the purchase or sale under**
 31 **subsection (a) is specifically authorized:**

32 **(A) in the document creating the fiduciary relationship; or**

33 **(B) under IC 30-4-3-7."**

34 Page 3, delete lines 1 through 6.

35 Page 4, line 3, delete "bank's or trust company's" and insert "**savings**
 36 **bank's**".

37 Page 4, delete lines 7 through 25, begin a new paragraph and insert:

38 **(c) The following apply to a purchase or sale under subsection**

1 **(a):**

2 **(1) Except as provided in subdivisions (2) and (3), if the**
3 **fiduciary relationship is a trust or an agency, the trustee or**
4 **agent shall treat the purchase or sale under subsection (a) as**
5 **if it were a conflict of interest transaction under IC 30-4-3-5**
6 **and shall give any notice and obtain any consent that may be**
7 **required under IC 30-4-3-5, subject to the following:**

8 **(A) IC 30-2-14-16 applies to any notice required to be**
9 **given by a trustee or an agent under this subdivision,**
10 **subject to the following:**

11 **(i) If the fiduciary relationship is a revocable trust with**
12 **one (1) or more living grantors, the trustee must give**
13 **notice only to the living grantors, who shall be**
14 **considered to have all income and principal interests in**
15 **the trust at the time the notice is given. If a grantor is**
16 **incapacitated, the trustee shall give notice to the**
17 **grantor's court appointed guardian, the principal under**
18 **a durable power of attorney, or a co-trustee of the**
19 **revocable trust, unless the guardian, principal, or**
20 **co-trustee is the savings bank that seeks the consent. If**
21 **the representative of the incapacitated grantor is the**
22 **savings bank that seeks the consent to a purchase or sale**
23 **under subsection (a), the trustee shall obtain consent**
24 **from the court.**

25 **(ii) If the fiduciary relationship is a revocable trust and**
26 **the assets of the revocable trust are distributable to one**
27 **(1) or more other trusts, notice shall be given to the**
28 **trustees of the other trusts. However, if the savings bank**
29 **that seeks the consent to a purchase or sale under**
30 **subsection (a) is the trustee of another trust to which the**
31 **assets of the revocable trust are distributable, the savings**
32 **bank shall give notice to those beneficiaries of the other**
33 **trust who are entitled to receive statements of account**
34 **activity from the savings bank.**

35 **(iii) If the fiduciary relationship is an agency, the**
36 **principal must consent to the purchase or sale under**
37 **subsection (a) in writing in advance of the transaction.**
38 **The principal shall be considered to have all income and**

principal interests in the account at the time the notice of the proposed transaction is given. If the principal is incapacitated, consent must be obtained from the principal's court appointed guardian, unless the guardian of the incapacitated principal is the savings bank that seeks the consent. If the guardian of the incapacitated principal is the savings bank that seeks the consent, consent to a purchase or sale under subsection (a) must be obtained from the court supervising the principal's guardianship.

(B) If the fiduciary relationship is a trust, the following apply with respect to any consent required to be obtained under IC 30-4-3-5(a)(2):

(i) Notwithstanding the requirement under IC 30-4-3-5(a)(2)(A) that all interested persons provide written consent to the proposed action, and subject to subdivision (2), a trustee, for a proposed purchase or sale under subsection (a), need only obtain the written consent of a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this clause. However, the trustee must obtain the written consent of at least one (1) beneficiary who is receiving income under the trust at the time of the notice and at least one (1) individual who would receive a distribution of principal if the trust were terminated at the time notice is given.

(ii) Upon obtaining the written consents required under item (i), the trustee need not wait until the period to make written objections under IC 30-2-14-16 ends, in order to take the proposed action.

(2) Any consent granted under subdivision (1)(B)(i) may be revoked by a writing signed by a majority of the persons entitled to notice under IC 30-2-14-16, as modified by this clause. However, the revocation must be signed by:

(A) at least one (1) beneficiary who is receiving income under the trust at the time the revocation is signed; and

(B) at least one (1) individual who would receive a distribution of principal if the trust were terminated at the

1 time the revocation is signed.
2 **(3) The notice and consent otherwise required under**
3 **subdivision (1) is not required if the purchase or sale under**
4 **subsection (a) is specifically authorized:**
5 **(A) in the document creating the fiduciary relationship; or**
6 **(B) under IC 30-4-3-7."**

(Reference is to SB 379 as printed February 13, 2007.)

and when so amended that said bill do pass.

Representative Bardon